

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

Claims 1-16 are pending in this application. Claims 1-16 were rejected under 35 U.S.C. § 112, second paragraph. Claims 1, 8, 14, and 15 were provisionally rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1, 5, 6, and 13 of co-pending U.S. application serial No. 09/769,309. Claims 1, 8, and 14-16 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. patent 6,100,940 to Dieterich in view of U.S. patent 5,872,598 to Legall et al. (herein "Legall"). Claims 2, 3, 9, and 10 were rejected under 35 U.S.C. § 103(a) as unpatentable over Dieterich and Legall as applied to claims 1, 8, and 14-16, and further in view of U.S. patent 6,546,052 to Maeda et al. (herein "Maeda"). Claims 4 and 11 were rejected under 35 U.S.C. § 103(a) as patentable over Dieterich, Legall, and Maeda as applied to claims 1-3, 8-10, and 14-16, and further in view of U.S. patent 6,611,628 to Sekiguchi et al. (herein "Sekiguchi"). Claims 5, 6, 12, and 13 were rejected under 35 U.S.C. § 103(a) as unpatentable over Dieterich, Legall, Maeda, and Sekiguchi as applied to claims 1-4, 8-11, and 14-16, and further in view of U.S. patent 6,400,890 to Nagasaka et al.

Addressing first the rejection of claims 1-16 under 35 U.S.C. § 112, second paragraph, the claims are amended by the present response to address that rejection. The language noted as not having clear antecedent basis in the claims is now canceled and clarified language having clear antecedent basis is now recited in the noted claims.

In view of the presently submitted claim amendments, each of claims 1-16 is believed to be in full compliance with all requirements under 35 U.S.C. § 112, second paragraph.

Addressing now the rejection of claims 1, 8, 14, and 15 under the judicially created doctrine of obviousness-type double patenting as unpatentable over claims 1, 5, 6, and 13 of co-pending U.S. application serial No. 09/769,309, that rejection is traversed by the present

response. Filed with the present response is a Terminal Disclaimer over U.S. application serial No. 09/769,309. The submission of that Terminal Disclaimer is believed to address the obviousness-type double patenting rejection.

Addressing now each of the prior art rejections based on Dietrich in view of Legall, and further in view of Maeda, Sekiguchi, and Nagasaka, those rejections are traversed by the present response.

Applicants respectfully submit the combination of teachings of Dietrich and Legall does not fully meet each of the features relied upon in the Office Action.

As recognized in the Office Action, Dietrich does not disclose an encoding parameter generator configured to generate an encoding parameter including at least an optimum frame rate and quantization step size for each of scenes using an average feature amount. To overcome that recognized deficiency in Dietrich the outstanding Office Action cites Legall, particularly at column 11, lines 37-62.<sup>1</sup>

Applicants respectfully submit, however, that Legall does not in fact cure the deficiencies in Dietrich.

More particularly, the claims specifically set forth generating an encoding parameter including at least an *optimum frame rate and quantization step size*, for each of the scenes using the average feature amount. At column 11, lines 37-62 Legall merely notes a scene change detection that utilizes a quantization scale factor rate control. Legall does not, however, disclose or suggest generating an encoding parameter that includes *both an optimum frame rate and a quantization step size*.

In view of these foregoing comments, applicants respectfully submit Legall does not cure the recognized deficiencies in Dietrich, and that no combination of teaching of Dietrich

---

<sup>1</sup> Office Action of October 19, 2005, the paragraph bridging pages 4 and 5.

and Legall fully meets the limitation in claims 1, 8, and 14-16. Thus, those claims are believed to be allowable over Dietrich in view of Legall.

With respect to the further rejections based on Maeda, Sekiguchi and Nagasaka, those rejections are also traversed in view of the above-noted deficiencies of the combination of teachings of Dietrich in view of Legall.

Applicants also submit Maeda does not even overcome the further recognized deficiencies of Dietrich and Legall.

With respect to the reliance on the teachings in Maeda, applicants also note the claims are amended by the present response to clarify that each of the time-continuous frames of the video image includes “at least one object and a background”.

Maeda is specifically cited to teach “the particular use of a scene content providing device configured to provide [a] feature of each of the scenes to the user (see Figures 1 and 5, and columns 7-9). It is noted that the selected scenes of Maeda are performed within object extractor 103 in accordance with an operation information obtained by an automatic process (see column 7) to be provided to encoding parameter generator (128, 131 of Figure 5)”.<sup>2</sup>

In that respect, the outstanding Office Action appears to cite Figures 1 and 5 of Maeda to show a scene content providing device. Applicants respectfully submit, however, that Maeda does not provide a plurality of scenes that are continuous in time. The reliance on Maeda disclosing selecting scenes with object extractor 103 and providing the selected scenes to encoding parameter generator 128 and 131 is believed to misconstrue the disclosure in Maeda relative to the claimed features. More specifically, the cited object extractor 103 in Maeda is an object extractor for extracting an image of a person as an object image from a blue back (Maeda at column 7, lines 18-20). That disclosure in Maeda differs from the claimed scene dividing device, which is configured to divide a video image into a plurality of

---

<sup>2</sup> Office Action of October 19, 2005, page 6, lines 6-12.

scenes continuous in times, each of the scenes including one or more of time-continuous frames, each including at least one object in the background. In such ways, Maeda does not overcome the further recognized deficiencies of Dietrich in view of Legall.

Moreover, no teachings in Sekiguchi or Nagasaka were cited with respect to any of the above-noted deficiencies of Dietrich in view of Legall, and further in view of Maeda. Further applicants respectfully submit no teachings in Sekiguchi or Nagasaka cure the above-noted deficiencies of Dietrich in view of Legall, and further in view of Maeda.

In view of these foregoing comments, applicants respectfully submit the claims as currently written distinguish over the applied art.

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for allowance, and it is hereby respectfully that this case be passed to issue.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



---

Eckhard H. Kuesters  
Registration No. 28,870  
Surinder Sachar  
Registration No. 34,423  
Attorneys of Record

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 06/04)

I:\ATTY\SNS\21's\212636\212636US-AM1.DOC